

House File 2259

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1 3 AN ACT
1 4 RELATING TO THE SELLING AND PURCHASING OF PRODUCTS CONTAINING
1 5 PSEUDOEPHEDRINE, AND PROVIDING PENALTIES.
1 6
1 7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
1 8
1 9 Section 1. NEW SECTION. 126.23A PSEUDOEPHEDRINE ==
1 10 RESTRICTIONS.
1 11 1. A retailer shall not sell and a person shall not
1 12 purchase in a single transaction more than two packages
1 13 containing pseudoephedrine as the products' sole active
1 14 ingredient.
1 15 2. A retailer who offers for sale a product containing
1 16 pseudoephedrine as the product's sole active ingredient shall
1 17 display and offer such product for sale, except as otherwise
1 18 provided, behind a counter where the public is not permitted
1 19 or within twenty feet of a counter which allows the attendant
1 20 to view the products in an unobstructed manner. A retailer
1 21 may display or offer for sale without restriction a product
1 22 containing pseudoephedrine as the sole active ingredient if
1 23 the product is displayed using any type of antitheft device
1 24 system including but not limited to an electronic antitheft
1 25 device system that utilizes a product tag and detection alarm
1 26 which prevents the theft of the product.
1 27 3. A retailer shall post a notice at the location where a
1 28 product containing pseudoephedrine as its sole active
1 29 ingredient is displayed or offered for sale stating the
1 30 following:
1 31 Iowa law prohibits the sale or purchase of more than two
1 32 packages containing pseudoephedrine as the sole active
1 33 ingredient.
1 34 4. An employee of a retailer who sells packages containing
1 35 pseudoephedrine or a person who purchases packages containing
2 1 pseudoephedrine in violation of subsection 1 commits a simple
2 2 misdemeanor, punishable as a scheduled violation under section
2 3 805.8C, subsection 4, paragraph "a". If a citation is issued
2 4 for a violation of subsection 1, the citation shall be issued
2 5 to both the employee who sells the packages and the purchaser.
2 6 5. For each violation of subsection 1, 2, or 3 by a
2 7 retailer, the retailer shall be assessed a scheduled fine
2 8 under section 805.8C, subsection 4, paragraph "b".
2 9 6. a. Enforcement of any scheduled fine for violation of
2 10 this section by the state or a political subdivision of the
2 11 state shall be in magistrate court.
2 12 b. Enforcement of this section shall also be implemented
2 13 uniformly throughout the state. For purposes of uniform
2 14 implementation, a county or municipality shall not set
2 15 requirements or establish a penalty which is higher or more
2 16 stringent than the requirements or penalties enumerated in
2 17 this section.
2 18 7. All civil penalty moneys collected by the state or a
2 19 political subdivision of the state pursuant to this section
2 20 shall be retained by the state or political subdivision of the
2 21 state, respectively.
2 22 8. As used in this section, "retailer" means a person or
2 23 business entity engaged in this state in the business of
2 24 selling products on a retail basis.
2 25 9. This section shall not apply to the following:
2 26 a. Any package of a product containing pseudoephedrine as
2 27 the product's sole active ingredient which is in liquid form.
2 28 b. Any package of a product containing pseudoephedrine as
2 29 the product's sole active ingredient which is primarily
2 30 intended for administration to children under twelve years of
2 31 age according to the label, regardless of whether the product
2 32 is in liquid or solid form.
2 33 c. Any package of a product containing pseudoephedrine as
2 34 the product's sole active ingredient that the board of
2 35 pharmacy examiners, with the concurrence of the department of
3 1 public safety, upon application of a manufacturer, exempts
3 2 from this section because the product is formulated to
3 3 effectively prevent conversion of the active ingredient into
3 4 methamphetamine or its salts or precursors. The board of
3 5 pharmacy examiners, with the concurrence of the department of

3 6 public safety, shall adopt rules pursuant to chapter 17A to
3 7 administer this paragraph.
3 8 Sec. 2. Section 602.8105, Code Supplement 2003, is amended
3 9 by adding the following new subsection:
3 10 NEW SUBSECTION. 4. The clerk of the district court shall
3 11 collect a civil penalty assessed against a retailer pursuant
3 12 to section 126.23A. Any moneys collected from the civil
3 13 penalty shall be distributed to the state or a political
3 14 subdivision of the state as provided in section 126.23A,
3 15 subsection 7.

3 16 Sec. 3. NEW SECTION. 714.7C THEFT OF PSEUDOEPHEDRINE ==
3 17 ENHANCEMENT.

3 18 Notwithstanding section 714.2, subsection 5, a person who
3 19 commits a simple misdemeanor theft of more than two packages
3 20 containing any of the following commits a serious misdemeanor:

3 21 1. Pseudoephedrine as the product's sole active
3 22 ingredient.

3 23 2. Pseudoephedrine in combination with other active
3 24 ingredients.

3 25 A simple misdemeanor theft of more than two packages
3 26 containing pseudoephedrine as the products' sole active
3 27 ingredient which are in liquid form does not constitute a
3 28 serious misdemeanor under this section.

3 29 Sec. 4. Section 805.8C, Code 2003, is amended by adding
3 30 the following new subsection:

3 31 NEW SUBSECTION. 4. a. PSEUDOEPHEDRINE SALES VIOLATIONS.

3 32 For a violation of section 126.23A, subsection 1, the
3 33 scheduled fine is one hundred dollars.

3 34 b. For a violation of section 126.23A, subsection 1, 2, or
3 35 3, by a retailer, the scheduled fine is one hundred dollars,

4 1 and is a civil penalty and the criminal penalty surcharge

4 2 under section 911.2 shall not be added to the penalty, and the
4 3 court costs pursuant to section 805.9, subsection 6, shall not
4 4 be imposed.

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CHRISTOPHER C. RANTS
Speaker of the House

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JEFFREY M. LAMBERTI
President of the Senate

4 15 I hereby certify that this bill originated in the House and
4 16 is known as House File 2259, Eightieth General Assembly.

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MARGARET THOMSON
Chief Clerk of the House

4 22 Approved _____, 2004

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4 26 _____
THOMAS J. VILSACK
Governor